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Attorney Docket No. 61384/016

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Naresh Vig

Group Art Unit: 3629

Application of	:	Gerald I. KESTENBAUM
Serial No.	:	09/587,525
Filing Date	:	June 5, 2000
Entitled	:	APPARATUS AND METHOD FOR PROVIDING BUILDING MANAGEMENT INFORMATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

FACSIMILE TRANSMISSION CERTIFICATE	
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<i>Naresh Vig</i> Signature	<i>2/2/05</i> Date

REQUEST FOR RECONSIDERATION

Sir:

Entry of the enclosed Declaration of Gerald I. Kestenbaum under 37 C.F.R.

§1.131 and reconsideration of the application in light thereof are respectfully requested.

In the final Office Action dated September 10, 2004, the Examiner rejected claims 98-108 as being unpatentable based primarily upon a newly cited prior art reference. Specifically, the Examiner rejected claim 98 under 35 U.S.C. 102(a) as being unpatentable over a newly cited article entitled "Intranet For Apartment Dwellers" published in the Jerusalem Post on January 30, 2000 (hereinafter "ElectricStreets"). Additionally, the Examiner rejected claims 99-108 under 35 U.S.C. 103(a) as being unpatentable over ElectricStreets in view of US 5,875,430.

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Submitted herewith is a Declaration under 37 C.F.R. §1.131 by the inventor, Gerald I. Kestenbaum, of the above-identified patent application. This Declaration demonstrates with supporting documentation that Mr. Kestenbaum conceived the invention of claims 98-108 at least as early as September 14, 1999, and that he proceeded with due diligence to actually reduce this invention to practice by no later than December 16, 1999. Pursuant to 37 C.F.R. §1.131, a showing of either reduction to practice prior to the effective date of a reference, or conception of the invention prior to the effective date of the reference coupled with due diligence prior to said date to a subsequent reduction to practice, will antedate the reference. It is submitted that both prongs of 37 C.F.R. §1.131 have been met here. Accordingly, it is submitted that the ElectricStreets article relied upon by the Examiner in the final Office Action dated September 10, 2004, is effectively removed as a prior art reference against the presently claimed invention.

Furthermore, the enclosed Declaration should be made part of the record herein because the ElectricStreets article was newly cited in the final Office Action dated September 10, 2004. Additionally, entry of the Declaration will not require any additional searching by the Examiner. Furthermore, even if the Examiner finds the Declaration not to be persuasive, entry of the Declaration will expedite the appeal of this case so that the Board will be able to consider all issues.

Based on the foregoing, it is requested that rejections of claims 98-108 under 35 U.S.C. 102(a) and 103(a) presented in the Office Action dated September 10, 2004, should be withdrawn.

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In view of the foregoing, it is believed that the present application is now in condition for allowance and a favorable action on the merits is respectfully requested. In order to expedite prosecution of this case, the Examiner is kindly requested to telephone the undersigned at the number given below if this Request for Reconsideration and the enclosed Declaration of Gerald I. Kestenbaum Under 37 C.F.R. §1.131 do not place the application in condition for allowance.

Respectfully Submitted,



Charles Guttman, Reg. No. 29,161  
Attorney for Applicant

Date: February 2, 2005

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Enclosure: Request for Extension of Time  
Declaration of Gerald I. Kestenbaum Under  
37 C.F.R. §1.131 (w/Exhibits A-D)

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